In the Supreme Court of the United States.

OCTOBER TERM, 1915.

THE UNITED STATES OF AMERICA, APPELLANT,

v.

UNITED STATES STEEL CORPORATION ET AL.

APPEAL FROM THE DISTRICT COURT OF THE UNITED STATES FOR THE DISTRICT OF NEW JERSEY.

APPLICATION FOR ORDER EXTENDING THE TIME TO DOCKET THE CASE AND FILE THE RECORD IN THE SUPREME COURT.

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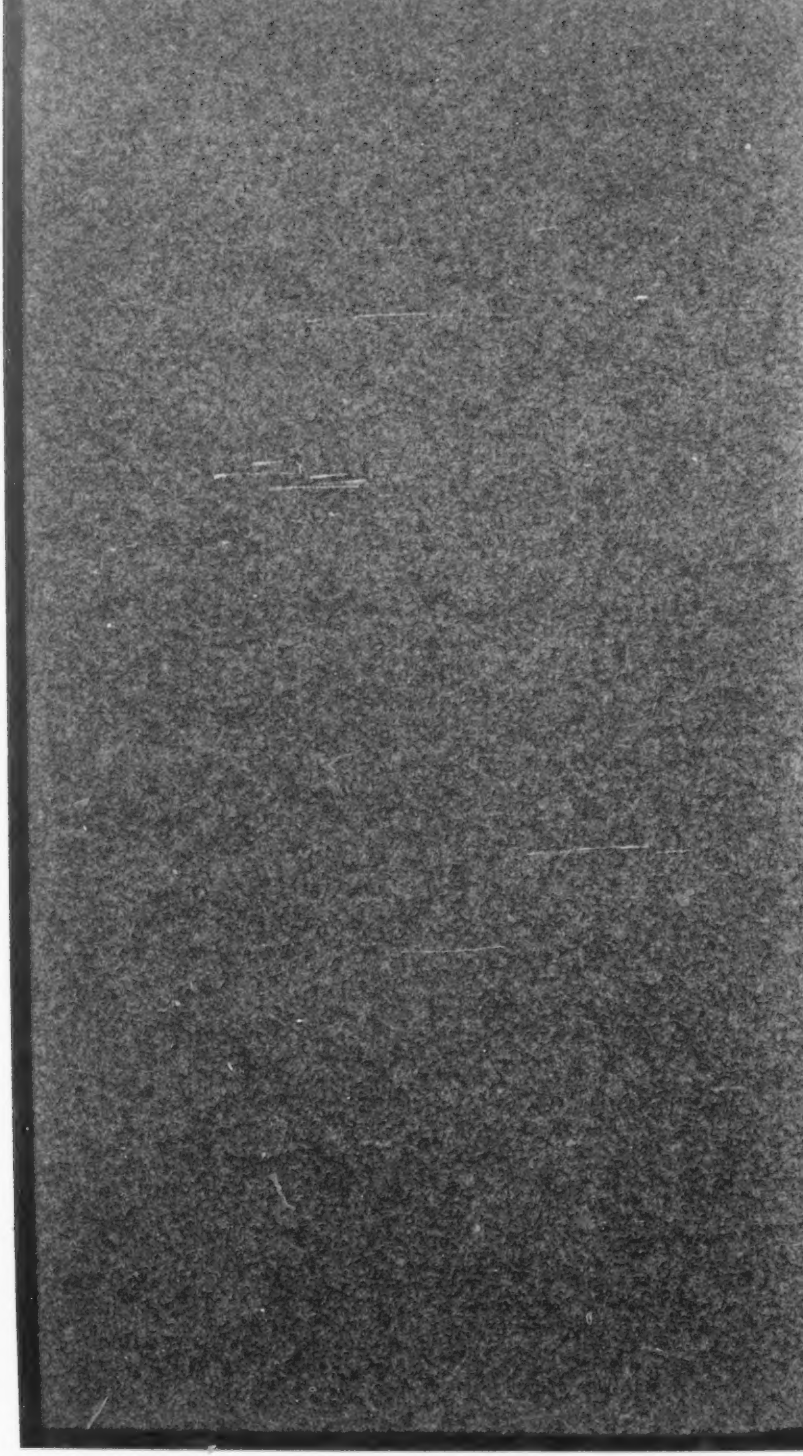

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APPLICATION FOR ORDER EXTENDING THE TIME TO DOCKET THE CASE AND FILE THE RECORD IN THE SUPREME COURT.

Early in November the District Court allowed an appeal and extended the time in which to docket the case and file the record in the Supreme Court to March 15, 1916, without prejudice to the application for further time.

Counsel for the Government and the defendants have been diligently engaged in reducing the record, under an arrangement whereby Government counsel summarizes that portion of the testimony taken by Government counsel and defendants' counsel summarizes that portion of the testimony taken by

defendants' counsel. The summaries thus prepared by opposing counsel are checked and agreed to. While this method of reducing the record is slow and tedious, it results in a substantial reduction of the testimony, the summaries being about one-third to one-half as voluminous as the original. The oral testimony in its original form covers 12,000 pages.

The reduction of the record was undertaken by Government counsel with the view of complying with equity rule 75. The offer of defendants' counsel to cooperate in making the summary was accepted so that we might, as we went along, eliminate differences as to the correctness of the summary and thus relieve the lower court from the burden of having to pass upon a vast number of objections to the correctness of the summary. Pursuant to this arrangement, the Government has summarized about two-thirds of the direct and redirect examinations of the witnesses examined by it and the defendants have summarized nearly all of the direct and redirect testimony of the witnesses examined by them. There remains to be summarized about three-fourths of the cross-examination of the various witnesses. We have checked and agreed upon about one-fifth of the oral testimony. We estimate that about one-half of the entire work involved in the reduction of the record remains to be done and that it will take until about the middle of July to complete this work.

This being the general situation on March 9, 1916, the Government applied to the District Court for an extension of time within which to docket the case and file the record. The District Court, without passing upon the application, suggested that, as the case was pending in the Supreme Court, counsel apply to that court, or a justice thereof, and submit the question of whether the entire record should not be sent up in the exact words of the witnesses instead of in such a reduced form as that contemplated by equity rule 75, remarking that they (the judges of the District Court), in considering the questions involved in the case, had found it very helpful to be able to refer directly to the original record, and thought that the Supreme Court would find it helpful to have the entire record before it in deciding the case.

The suggestion that the Supreme Court waive its rule in respect to reducing the record is not urged by the Government. On the contrary, the Government thinks that the reduction of the record pursuant to the rule will substantially serve the convenience of this court.

The appellant, therefore, prays that the time within which the appellant may docket its appeal in the above-entitled cause and file a duly authenticated transcript of the record with the clerk of the Supreme Court be extended to July 15, 1916, without prejudice to an application for further time. The appellant also prays that this court enter an order that, in the event the reduction of the record is not completed

by July 15, 1916, any justice of this court, for good cause shown, may further extend the time for docketing the appeal and filing the record.

As the time for docketing the case and filing the record expires on March 15, the appellant asks that the court at this time extend the time for docketing the case and filing the record, pending the determination of the questions submitted in this application.

JOHN W. DAVIS,
Solicitor General.

MARCH, 1916.

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IN THE

SUPREME COURT OF THE UNITED STATES

UNITED STATES OF AMERICA, APPELLANT,

vs.

UNITED STATES STEEL CORPORATION, ET AL.,
APPELLEES.

ON APPEAL FROM THE DISTRICT COURT OF THE UNITED STATES FOR THE DISTRICT OF NEW JERSEY.

Answer to application of Appellant for order enlarging time to docket case and file record; and countermotion for order directing the record to be filed in the form in which it was presented to the District Court.

To THE HONORABLE,
The Chief Justice and the Associate Justices
of the Supreme Court of the United States:

Now comes the United States Steel Corporation and opposes the application of the United States for an order enlarging the time to docket this case and file the record in the above-entitled cause in this Court, and

moves for an order directing the record to be filed in the form which it was presented to the District Court, for the following reasons, to-wit:

I. The testimony in said cause was taken before a special examiner appointed by the Court, and was begun on the sixth day of May, 1912, and completed in March, 1914. The testimony was printed as taken and amounted in the aggregate to thirty volumes containing 12,151 printed pages, in addition to which twenty-four volumes of exhibits were offered, comprising 3,774 printed pages. Of this testimony six volumes, containing 2,600 pages, was taken before November 4, 1912, at which date the new Equity Rules of this Court were promulgated, and eight volumes, cantaining 3,369 pages, was taken before February 1, 1913, at which date said new Equity Rules took effect. By arrangement between the parties the testimony was printed and bound in form to comply with the rules of this Court existing at the time the same was begun, and enough volumes were printed and are now in existence for use on appeal to this Court.

II. The testimony of the witnesses on both sides was taken in the order in which it was found convenient to obtain their attendance, and not with any close reference to the subjects of their testimony. On this account and because of the great volume of the testimony, counsel on both sides recognized the impracticability of the Court's using the testimony without careful digests, abstracts, and indices, and, in preparing their briefs, took pains to furnish the Court with complete but succinct epitomes of the testimony and exhibits, arranged with reference to the subjects upon which the witnesses were examined. These were declared by the Court in the concluding paragraph of

its opinion to have greatly aided its labors and to have enabled it within the limits of reasonable time and without delaying its routine work to reach a reasonably prompt determination of the cause.

III. A final decree dismissing the bill was filed on the 10th day of September, 1915, and the appeal to this Court was filed on the 1st day of November, 1915. By an order of the District Court, filed the 10th day of November, 1915, the time for filling the record in this Court was extended until March 15, 1916. On account of the foregoing circumstances and in order to expedite the hearing of the appeal, counsel for the United States Steel Corporation shortly after the taking of said appeal applied to counsel for the Government to unite with them in an application to this Court to order the record to be filed in the form in which it was presented to the Court below. Counsel for the Government, however, replied that they thought this Court would prefer to have the record reduced to narrative form under Equity Rule 75, and declined to unite in such application. Thereupon, counsel for the United States Steel Corporation offered to assist the Government in reducing the record to narrative form, and it was arranged, as stated in the Government's present application, that counsel for each side should reduce the evidence taken by it, subject to check and approval by the other side. This work went on, as stated in the Government's present application, until March 9, 1916, at which time counsel for the Government made to the Court below the application mentioned in its present application to this Court, with the result stated in said application. In the view of counsel for the United States Steel Corporation considerably more than half of the work of reducing the record remains to be done, and counsel are of opinion that even a

greater time would be consumed in completing the same than the time asked by the Government for that purpose.

IV. The record, if reduced to narrative form in the manner in which it is now being prepared, would comprise not less than 5,000 closely printed pages, and the order of witnesses would not and could not be so arranged as to make consecutive reading of the testimony practicable or helpful to the Court. It would still be necessary, in our opinion, to use abstracts or digests of the character furnished to the Court below and to use the testimony for reference and checking only. In our opinion, for such use much would be lost by not having the testimony in the exact words of the witnesses.

V. It is highly important to the United States Steel Corporation that the appeal in this cause should be speedily heard and determined. Great and additional delay would necessarily result from requiring the vast record of the cause to be re-written; the labor also of preparing a statement of the case and briefs for this Court would be vastly increased, and the total expense would, it is respectfully submitted, be a burden from which the appellees ought, in fairness, to be relieved.

Respectfully submitted,

RICHARD V. LINDABURY,
DAVID A. REED,
of Counsel for
United States Steel Corporation.

March 14, 1916.

SUPREME COURT OF THE UNITED STATES

UNITED STATES OF AMERICA, APPELLANT, *vs.* UNITED STATES STEEL CORPORATION, ET AL., APPELLEES.	On Appeal from the District Court of the United States for the District of New Jersey.

Additional reason in support of motion by the United States Steel Corporation for an order directing the record to be filed in the form in which it was presented to the District Court.

VI. In the opinion of the Court below will be found continual references to the book and page of the testimony supporting, as was thought by the Court, substantially every finding of fact therein stated. These references number many hundreds and will be found on nearly every page. They would, we think, be of the greatest assistance to this Court in enabling it to test the accuracy of the various conclusions of fact upon which the decree was rested. The case was essentially one of fact and the reasons given by the Court for its various conclusions with respect to the facts cannot, we think, be adequately weighed or understood without a reference to the testimony which the Court thus referred to without quoting. It is obvious that if the record be not brought up in the form in which it was presented to the Court below, these references will be unavailing, and the opinion will be deprived of much of its value to the Court in reviewing the case.

We are leaving with the Clerk a printed copy of the opinion in order that the character and extent of these references may be seen.

RICHARD V. LINDABURY,
DAVID A. REED,
of Counsel for
United States Steel Corporation.

March 14, 1916.

In the Supreme Court of the United States

October Term, 1915.

THE UNITED STATES OF AMERICA, APPELLANT,

vs.

UNITED STATES STEEL CORPORATION, &c., &c.

APPEAL FROM THE DISTRICT COURT OF THE UNITED STATES FOR THE DISTRICT OF NEW JERSEY.

BRIEF ON APPEAL FOR THE UNITED STATES IN REPLY TO THE BRIEF FOR THE APPELLEES IN THE FORM IN WHICH IT WAS FURNISHED TO THE SUPREME COURT.

In the Supreme Court of the United States.

OCTOBER TERM, 1915.

THE UNITED STATES OF AMERICA, APPELLANT,

v.

UNITED STATES STEEL CORPORATION ET AL.

APPEAL FROM THE DISTRICT COURT OF THE UNITED STATES FOR THE DISTRICT OF NEW JERSEY.

REPLY TO APPELLEES' MOTION FOR AN ORDER DIRECTING THE RECORD TO BE FILED IN THE FORM IN WHICH IT WAS PRESENTED TO THE DISTRICT COURT.

The principal reasons urged by the appellees in favor of this court waiving equity rule 75, requiring the reduction of the record before submission to this court, are: That the briefs submitted by both sides in the District Court were carefully prepared and were found by that court to materially lessen its labor in examining the case; that the testimony is exceedingly voluminous and was taken with more regard to the convenience of witnesses than with regard to an orderly arrangement of subject matter; that it will be necessary, even after the record has been reduced under the present arrangement, to submit to this court abstracts or digests of the general character submitted to the court below; that much

of the force of the witnesses' testimony will be lost in being reduced to narrative form; and that the reduction of the record will result in delay and expense and greatly increase the burden of counsel in preparing the case for this court.

Such objections to the enforcement of the rule can be urged in practically every important case. We do not think that there is any material fact that distinguishes this case from other cases, except that the very size of the record makes compliance with the rule more desirable.

The Government's brief in the court below consisted of two volumes, its statement of facts and summary of the evidence which it regarded as most important being incorporated in the brief. The appellees' brief consisted of two volumes, entitled, respectively, "Statement of the Case" and "Argument." The appellees, in the volume entitled "Statement of the Case," set forth their conclusions as to the facts, and summarized the portions of the evidence which they considered most important. In the volume entitled "Argument," they reiterated these conclusions and presented their view of the law. The accuracy of the appellees' summary of the testimony and the facts was contested by the Government, and the accuracy of the Government's summary was likewise contested by the appellees. The Government pointed out some of the errors which it thought were committed by the appellees in their statement of the case and gave references in connection therewith. So far as the briefs submitted in the

District Court are concerned, there is nothing that distinguishes this case from other cases that have arisen and will hereafter arise.

It is true that, whether the record is brought up in its original form or is reduced pursuant to the present arrangement, it will be necessary to submit to this court, in the briefs, abstracts or summaries of the evidence material to a correct decision of the questions involved. But we think the convenience of this court will be greatly served by the substantial reduction in the record which is being made under the present arrangement. In summarizing the case, we have been able frequently, by agreement, to eliminate useless repetition and immaterial statements made by witnesses which merely serve to encumber the record, as well as most of the comments of counsel. On the other hand, where it has been difficult or impossible to reproduce the meaning of the witness's testimony in narrative form, we have by agreement used questions and answers.

If the reduction of the oral testimony is completed pursuant to the present arrangement, it will be only about one-third to one-half as voluminous as the original. While the reduction of the record, no doubt, will add to the burden of counsel in preparing the case, this is a matter of minor consideration as compared with the convenience of this court in disposing of public business.

Half of the work involved in reducing the record has already been done. In our opinion, the reduction of the record pursuant to the rule will not result in

any substantial delay in the submission of the case to this court.

In the Harvester Case the record was very substantially reduced before submission to this court, we assume to the convenience of all concerned.

JOHN W. DAVIS,
Solicitor General.

MARCH, 1916.

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